

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3120 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE JAYANT PATEL

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the concerned Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals? : NO

PARASNATH RAMESHWAR PRASAD

Versus

MANAGER

Appearance:

1. Special Civil Application No. 3120 of 2002
MR CP JADHAV for Petitioner No. 1
RULE SERVED for Respondent No. 1-2
MR HS MUNSHAW for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE JAYANT PATEL

Date of decision: 10/03/2004

ORAL JUDGEMENT

1. With the consent of the parties the matter is

taken up for final hearing today.

2. Mr.Jadhav, learned Counsel for the petitioner, states that Special Civil Application No.3082/2002 which was ordered to be heard with this petition by the order dated 8-3-2002 is already heard and disposed of and, therefore, he states that this petition only is only required to be heard.

3. The present petition is preferred by the petitioner for appropriate directions to Respondent No.3 to recover the legal dues with interest from Respondents No.1 and 2 as per the Recovery Application dated 6-10-2000.

4. There is no dispute on the point that the award came to be passed on 8-3-2000 by the Commissioner under Workmen Compensation Act and as per the said award, the amount of Rs.41,300/= with the penalty of Rs.8,260/= and the interest at the rate of 6% and the cost of Rs.2,000/= is ordered to be paid. On the basis of the said award, the Labour Court has also issued certificate for recovery of the said amount. The grievance of the petitioner is that in all the petitioner had to receive the amount of Rs.75,868/= out of which the amount realized is only Rs.41,300/= and Rs.8,260/=:, whereas the interest amount at the rate of 6% and the cost of Rs.2,000/= is yet to be recovered.

5. Mr.Munshaw, learned Counsel for Respondent No.3, submitted that since the new Officer has joined, she would require some time to take action. However, he submitted that if the proper details of the property of Respondents No.1 and 2 are given, the necessary action shall be taken for realizing the outstanding amount as per the Recovery Certificate issued by the Labour Court.

6. There cannot be any dispute on the point that the Recovery Certificate which has been issued by the Labour Court should be enforced unless such recovery is stayed by any competent authority and it shall be the duty of the concerned Officer executing the Recovery Certificate to take necessary steps for realization of the amount.

7. Under the above circumstances, I find that the following directions shall meet with the ends of justice:-

7.1 The petitioner shall furnish necessary details of the amount which remains outstanding and also the properties of Respondents No.1 and 2 from whom

the amount is to be recovered and such details shall be furnished within a period of two weeks from today to Respondent No.3.

7.2 After such details are furnished, Respondent No.3 shall take necessary action for recovery of the outstanding amount, as early as possible, and shall complete the recovery at the earliest, preferably within a period of two months from the date of receipt of such details.

7.3 The amount so realized by Respondent No.3 shall be transferred to the Labour Court and it will be for the petitioner to move appropriate application, in accordance with law, for withdrawal of the said amount.

8. The petition is disposed of in terms of the above directions. No costs. Rule made absolute to the aforesaid extent.

10-3-2004 (Jayant Patel, J.)

vinod